

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:22-00091

LESLIE RUSSELL BURNEY

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion to continue the trial and pretrial deadlines for a period of at least thirty days. (ECF No. 39). In support of his motion and the need for a continuance, counsel for defendant states that additional time is needed to prepare for this case given his recent appointment as counsel. Counsel for defendant needs additional time to review discovery, investigate this matter, and meet with the defendant. Counsel for the government does not oppose defendant's request for a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** the motion to continue. In deciding to grant the motion to continue, the court considered the factors outlined in 18 U.S.C. §3161(h)(7)(B) and found that failure to grant a continuance would unreasonably deny counsel for defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the court hereby **ORDERS** as follows:

1. Trial of this action is continued until April 11, 2023, at 9:30 a.m., in Charleston. Jury instructions and proposed voir dire are to be filed by April 4, 2023;
2. All pretrial motions are to be filed by February 24, 2023;
3. A pretrial motions hearing is scheduled for March 7, 2023, at 11:00 a.m., in Charleston;
4. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 30th day of December, 2022.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge